

## **REMARKS/ARGUMENTS**

The Applicant originally submitted Claims 1-21 in the application. In view of the Appeal Brief filed on October 26, 2005, the Examiner has reopened prosecution and set forth new grounds of rejection. In response, the Applicant files this reply under 37 C.F.R. § 1.111.

In a previous response, the Applicant amended Claims 1, 4-5, 7-8, 15, 18-19 and 21. In the present response, the Applicant has amended Claims 1, 7-10, 15-17 and 21. Support for the amendment can be found in the original specification at: paragraph 5 on page 2, paragraph 7 on page 3, paragraph 9 of page 4, paragraphs 18-19 on pages 7-8, and Figures 1, 2A and 2B. Presently, the Applicant has not canceled or added any claims. Accordingly, Claims 1-21 are currently pending in the application.

### **I. Formal Matters and Objections**

The Examiner has objected to Claims 9-10 for containing informalities. In response, the Applicant has amended Claims 9-10 to correct the informalities. Accordingly, the Applicant respectfully requests the Examiner to withdraw the objection of Claims 9-10 and allow issuance thereof.

### **II. Rejection of Claims 1-21 under 35 U.S.C. §112**

The Examiner has rejected Claims 1-21 under 35 U.S.C. §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. More specifically, the Examiner asserts that the scope of the claims is affected since a particular Universal Serial Bus (USB) version is not identified. (*See* Examiner's Action, page 3.) The Applicant respectfully disagrees with the Examiner. However, in

order to expedite issuance, the Applicant has amended independent Claims 1, 8 and 15 to further indicate what type of USB signal the claims are directed. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §112, second paragraph rejection of Claims 1-21 and allow issuance thereof.

### **III. Rejection of Claims 1-4, 8, 10-11 and 15-18 under 35 U.S.C. §102**

The Examiner has rejected Claims 1-4, 8, 10-11 and 15-18 under 35 U.S.C. §102(b) as being anticipated by "CATC USB Chief Bus and Protocol Analyzer User's Manual," hereinafter referred to as Chief. The Applicant respectfully disagrees since Chief does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15.

Chief is directed to providing instructions for the operation of a "USB Bus and Protocol Analyzer" (Analyzer). (*See* page 1.) The Analyzer, however, is not for a USB signal capable of having a data transfer rate corresponding to at least a high-speed operation but instead supports a USB 1.1 signal. (*See* page 1 and 13.) The Analyzer of Chief, therefore, does not even consider a high-speed operation. Accordingly, Chief does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15.

Additionally, the Analyzer of Chief is not an intrinsic performance indication system as recited in amended independent Claim 15. On the contrary, the Analyzer is a development and test tool that is used to monitor a USB 1.1. (*See* page 1.) Instead of intrinsic to a computer system, the Analyzer is an external device that must be connected to a computer system for monitoring of a USB

bus. (See pages 1 and 3.) Thus, Chief also does not teach an intrinsic performance indication system as recited in amended independent Claim 15.

Therefore, for at least the reasons discussed above, Chief does not disclose each and every element of amended independent Claims 1, 8 and 15. As such, Chief does not anticipate Claims 1, 8 and 15 and Claims dependent thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102 rejection with respect to Claims 1-4, 8, 10-11 and 15-18.

#### **IV. Rejection of Claims 5, 12 and 19 under 35 U.S.C. §103**

The Examiner has rejected Claims 5, 12 and 19 under 35 U.S.C. §103(a) as being unpatentable over Chief and in further view of U.S. Patent No. 5,365,577 to Davis, *et al.* The Applicant respectfully disagrees.

As discussed above, Chief does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15. Additionally, Chief does not suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation. On the contrary, Chief is directed to testing a USB 1.1 signal. (See page 1.) As such, Chief does not even consider a high speed operation of a USB signal. Chief, therefore, does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15.

Davis has not been cited to cure the above deficiency of Chief but to teach at least a portion of a condition indication system that employs an audible device. (See Examiner's Action, page 5.) Additionally, the Applicant does not find where Davis discloses determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation but instead

is directed to telecommunications systems adapted for transmission of speech and display data over standard, existing telephone lines for audio-graphic communication between parties. (See column 1, lines 13-17.) Davis does disclose a tone generator but the signals from the tone generator are used to configure a subscriber's terminal (see column 22, lines 23-28), not indicate a data transfer rate to a user.

Thus, the cited combination of Chief and Davis does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15. Accordingly, the cited combination of Chief and Davis does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 5, 12 and 19 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 5, 12 and 19 and allow issuance thereof.

**V. Rejection of Claims 6, 13 and 20 under 35 U.S.C. §103**

The Examiner has rejected Claims 6, 13 and 20 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of U.S. Patent Application Publication No. 20030026183 by Kitagawa. The Applicant respectfully disagrees.

As discussed above, Chief does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15. Kitagawa has not been cited to cure this deficiency of Chief but to teach determination of the data transfer rate is based on an outcome of a chirping process. (See Examiner's Action, pages 5-6.) Additionally, the Applicants do not find where Kitagawa discloses determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-

speed operation but instead is directed to automatically changing a writing speed of an optical medium in accordance with an interface data transfer speed. (See column 1, paragraph 2.)

Thus, the cited combination of Chief and Kitagawa does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15. Accordingly, the cited combination of Chief and Kitagawa does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 6, 13 and 20 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 6, 13 and 20 and allow issuance thereof.

#### **VI. Rejection of Claims 7, 14 and 21 under 35 U.S.C. §103**

The Examiner has rejected Claims 7, 14 and 21 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of U.S. Patent No. 6,308,215 to Kolbet. The Applicant respectfully disagrees.

As discussed above, Chief does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15. Kolbet has not been cited to cure this deficiency of Chief but to teach employing a control signal associated with a USB signal for determination of a data transfer rate. (See Examiner's Action, page 6.) In fact, the Examiner recognized in previous Examiner's Actions that Kolbet does not teach determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation.

Thus, the cited combination of Chief and Kolbet does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claims 1, 8 and 15. Accordingly, the cited combination of Chief

and Kolbet does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 7, 14 and 21 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 7, 14 and 21 and allow issuance thereof.

**VII. Rejection of Claim 9 under 35 U.S.C. §103**

The Examiner has rejected Claim 9 under 35 U.S.C. §103(a) as being unpatentable over Chief in view of Kolbet and in further view of U.S. Patent No. 4,837,488 to Donahue. The Applicant respectfully disagrees.

As discussed above, the cited combination of Chief and Kolbet does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claim 8. Donahue has not been cited to cure this deficiency of the cited combination but to teach wherein determining and indicating are performed in circuitry contained in a cable assembly. (See Examiner's Action, page 7.) Additionally, the Applicant does not find where Donahue cures this deficiency but instead is directed to a portable identifier and tester assembly for multiple wire computer communication cables. (See column 2, lines 18-20.)

Thus, the cited combination of Chief, Kolbet and Donahue does not teach or suggest determining a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation as recited in amended independent Claim 8. Accordingly, the cited combination of Chief, Kolbet and Donahue does not provide a *prima facie* case of obviousness of Claim 8 and Claim 9 that depends thereon. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claim 9 and allow issuance thereof.


### VIII. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-21.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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Dated: 2/28/06

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